

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/822,051	Applicant(s) ROSENBERGER, RONALD JOHN	
	Examiner /Ted Kavanaugh/	Art Unit 3728	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 March 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The Brief is not fully responsive to the final office action mailed March 27, 2006. Appellant didn't respond to the opening statement about claim 1, line 9. The examiner called the Appellant and it was agreed that the term "or" should be changed to "and". Appellant hasn't fully responded to the drawing objections given in paragraph #1. Appellant has sent in an amendment with drawing changes on June 29, 2006 but was not entered (see advisory action dated 7/17/2006) inasmuch as it doesn't overcome the drawing objections. A petition would have to be filed to decide the drawing objection before the applicant can proceed to the board. Appellant hasn't responded to paragraph #2. Argument #3 on page 7 and 8 of the Brief refers to claims 1, 6, 7, and 18 as they have been amended to correct some 35 USC 112, 2nd paragraph issues. These remarks appear to go along with the amendment to the claims filed on June 29, 2006 which also were not entered because of all the other new issues presented (see advisory action dated 7/17/2006). The examiner has fully looked over the Appeal Brief but these defects are not to be construed as a complete list in view of the numerous defects found..

/Ted Kavanaugh/
Primary Examiner
Art Unit: 3728

Continuation Sheet (Patents and Trademark-462)

U.S. Patent and Trademark Office
PTOL-462 (Rev. 7-05)

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

Application No 08/112,233

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